DISASTER AND THE LAW

WHAT HAPPENED TO OUR RIGHTS?

AMERICAN LAW IS BASED ON A COMPLETE REJECTION OF DICTATORSHIPS.

OUR FAVORITE LEADERS--NOT

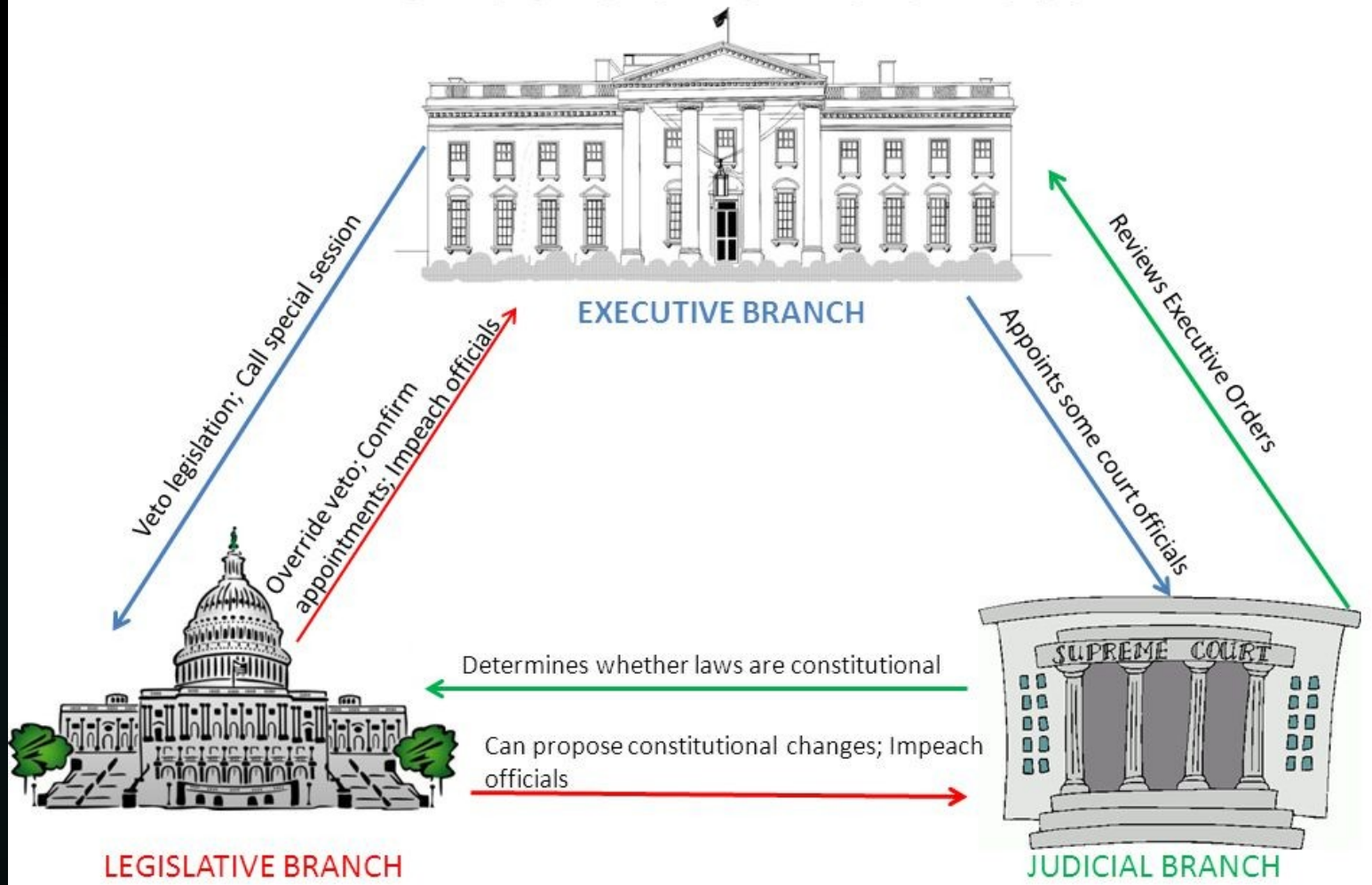
King George III
King of England:

We rebelled
Against his rule

WE SPLIT UP OUR GOVERNMENT POWERS
SO NO ONE PERSON OR GROUP CONTROLS
EVERYTHING

WE CALL THAT SYSTEM
CHECKS AND BALANCES

Checks and Balances



INDIVIDUAL RIGHTS

OUR LEGAL SYSTEM

GUARANTEES RIGHTS

TO OUR CITIZENS.

THE TRADITION OF

INDIVIDUAL RIGHTS

TRACES BACK FOR

A THOUSAND YEARS

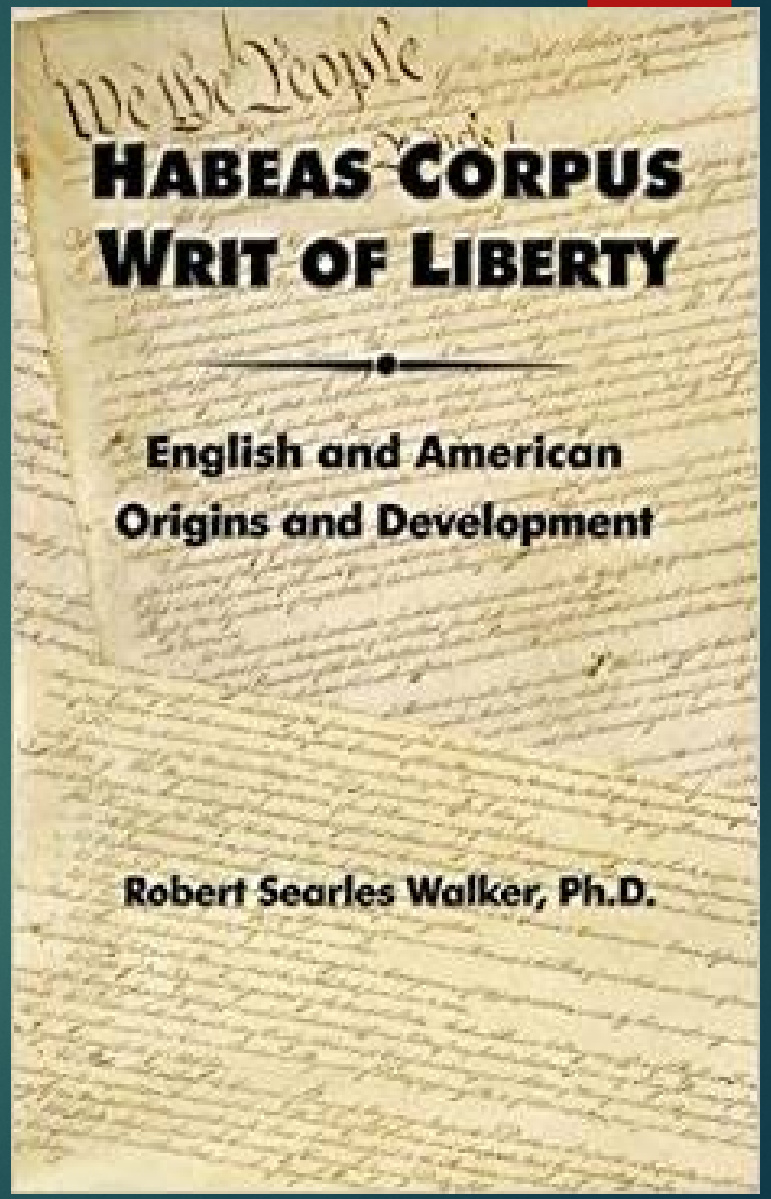
MAGNA CARTA LIBERATUM

15 JUNE 1215

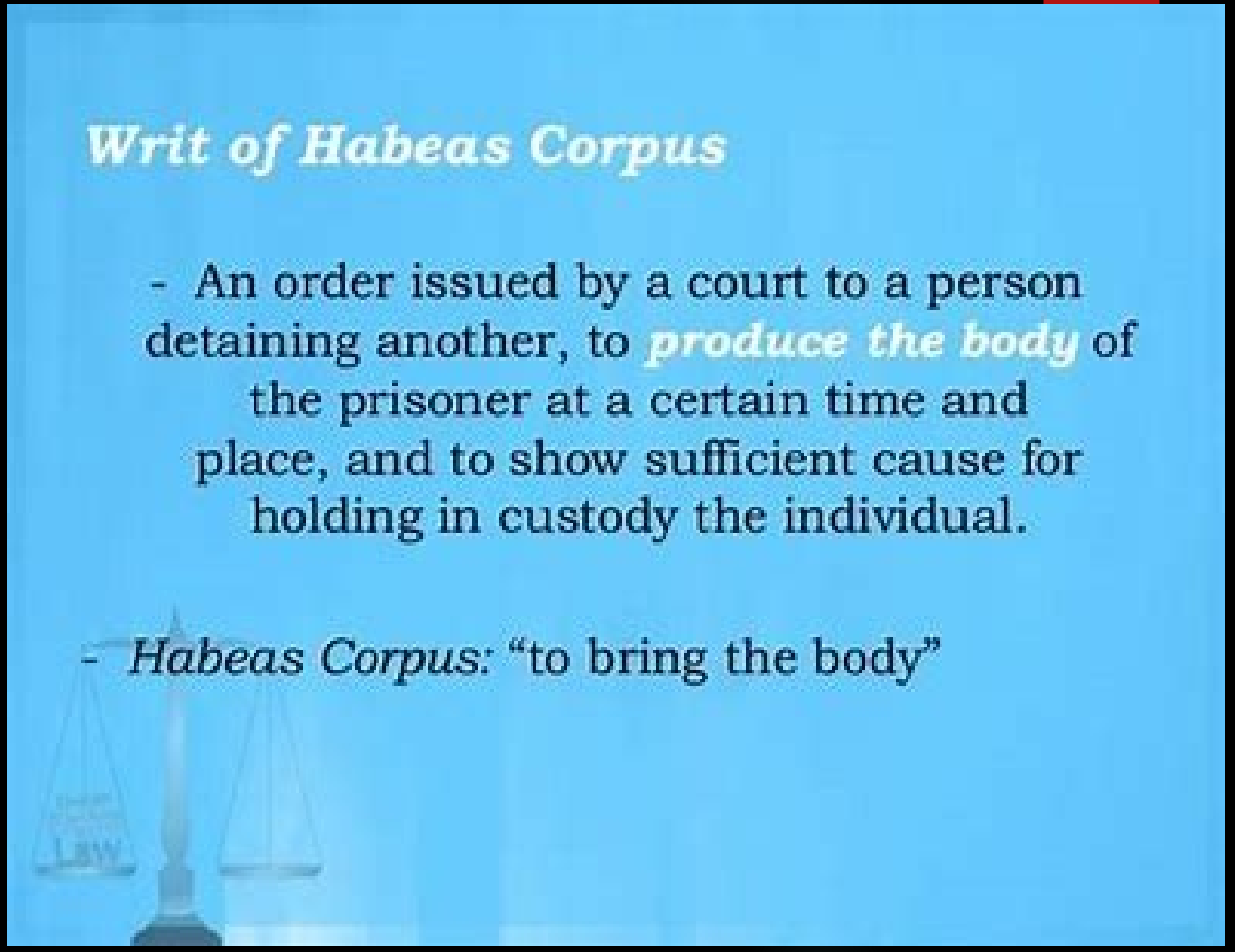
The Magna Carta Liberatum Guaranteed individual rights By limiting the Monarch’s Power

From the Assize of Clarendon 1166 By Henry II of England

Recognized 1617 By Parliament

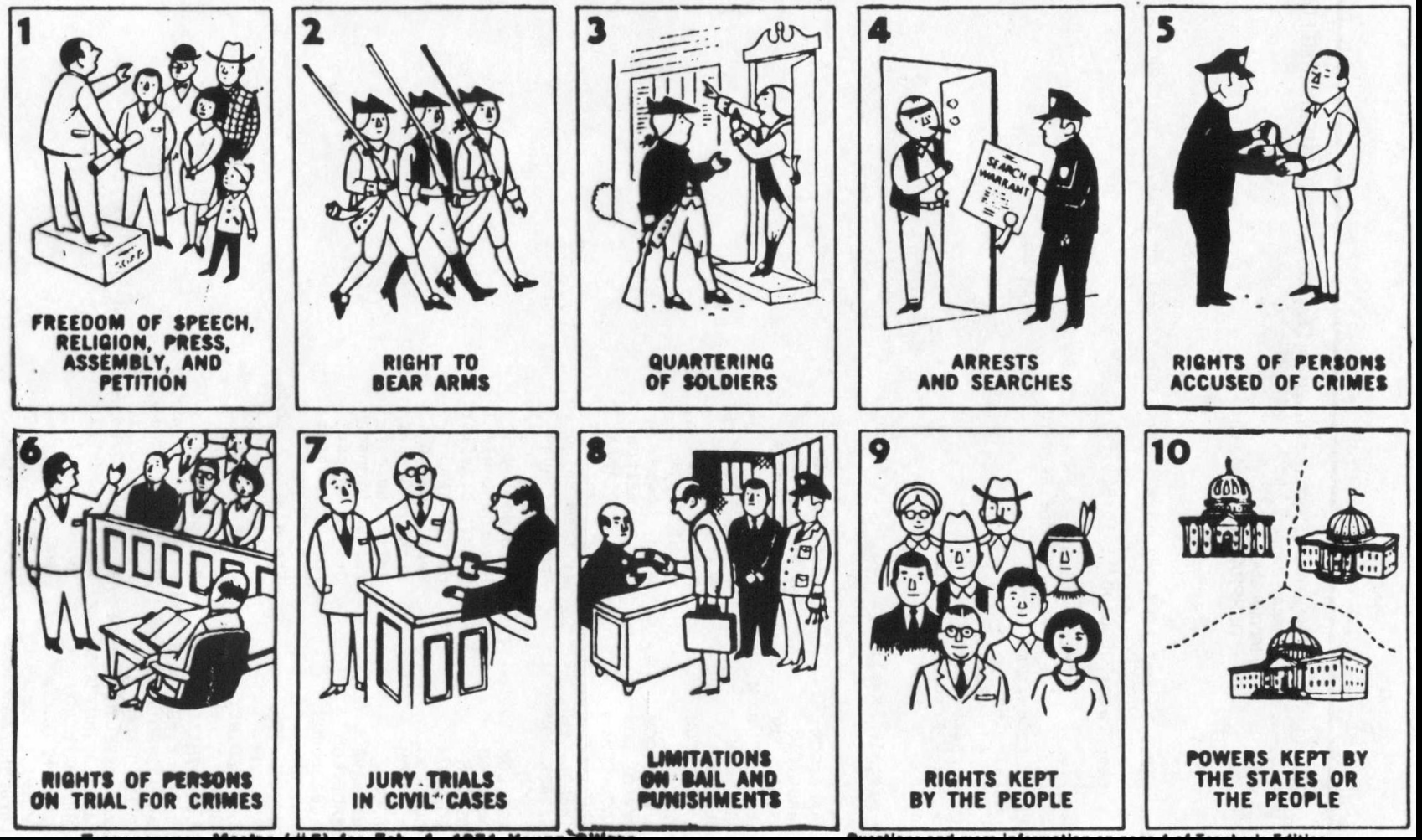


A COMMON LAW RIGHT IN AMERICA



THE BILL OF RIGHTS

The First Ten Amendments to the U.S. Constitution



HOW DO MOST GOVERNMENTS ADJUST THEIR legal system in a MAJOR DISASTER?

WARNING

MARTIAL LAW IN EFFECT WITHIN THIS AREA

WHAT IS MARTIAL LAW

- According to Merriam Webster:
- “The law administered by military forces that is invoked by a government in an emergency when the civilian law enforcement agencies are unable to maintain public order and safety”

- Martial law means the military forces run everything. The executive leader has complete dictatorial powers over everything.

- No checks and balances, no individual rights.

BUT SURELY IN AMERICA MARTIAL LAW CAN’T HAPPEN

THE US CONSTITUTION TELLS US

Article 1, Section 9 of the US Constitution states,

"The Privilege of the Writ of *Habeas Corpus* shall not be suspended,
unless
when in Cases of Rebellion or Invasion
the public Safety may require it."

BUT-BUT-
SURELY OUR COURTS SAY NO TO MARTIAL LAW

OR DO THEY

The Saga of Lambdin P Milligan

Lambdin P Milligan lived in Indiana during the Civil War

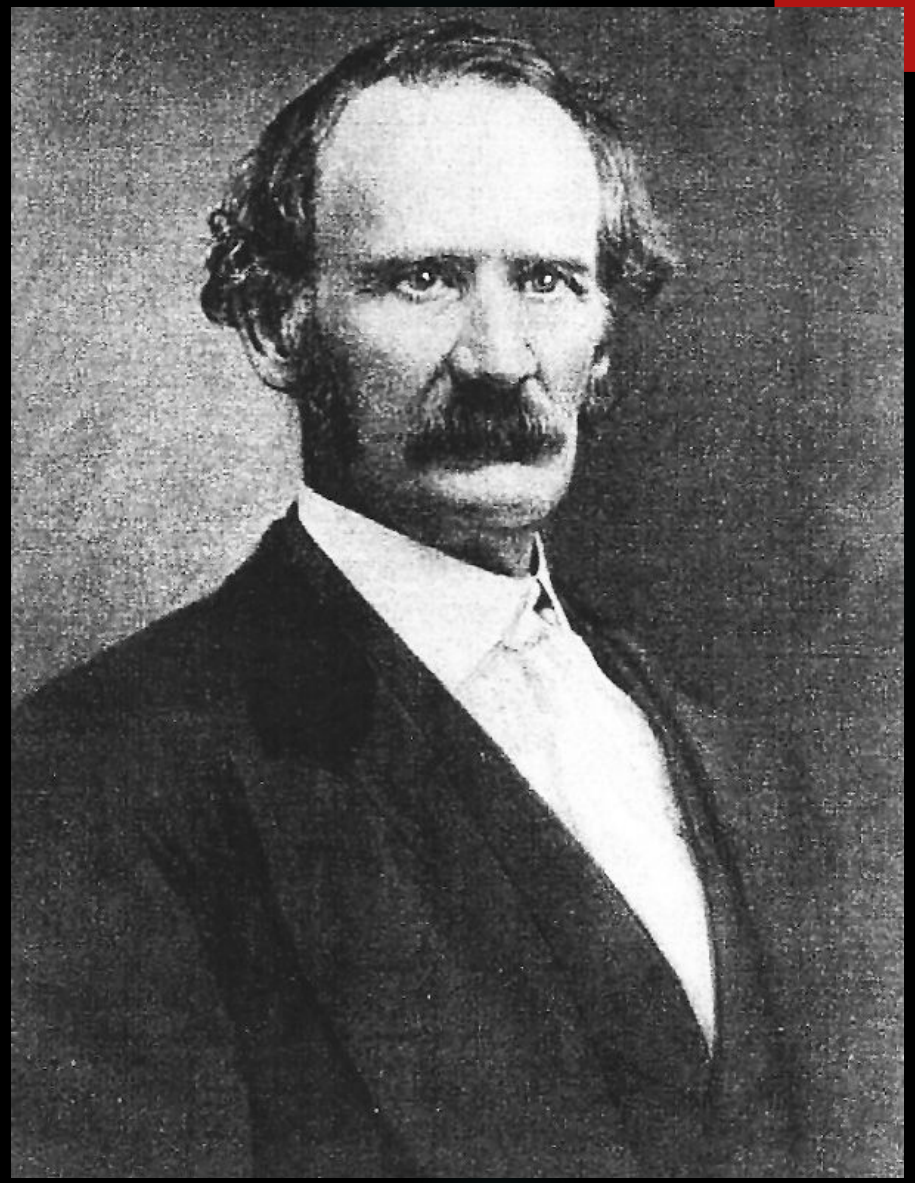
He had an unfavorable encounter with Martial Law

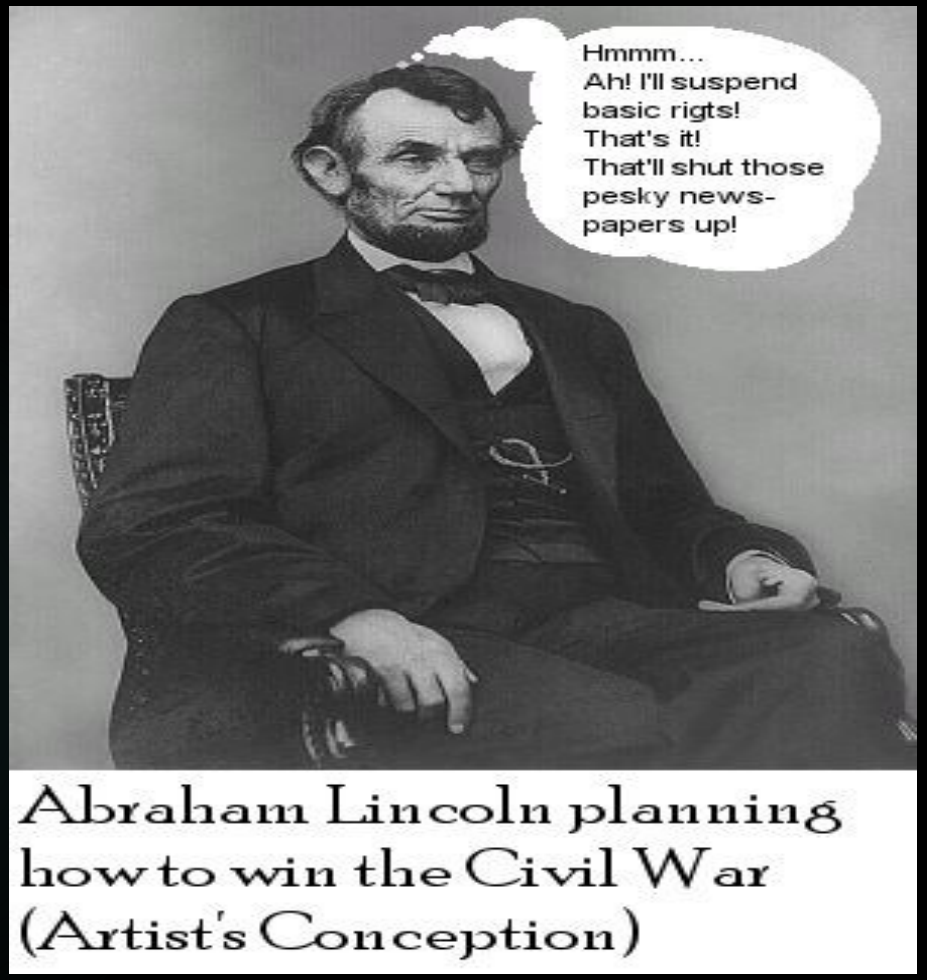
He was sentenced to death by a military tribunal

His case went before the United States Supreme Court

Landmark decision concerning Martial Law in America

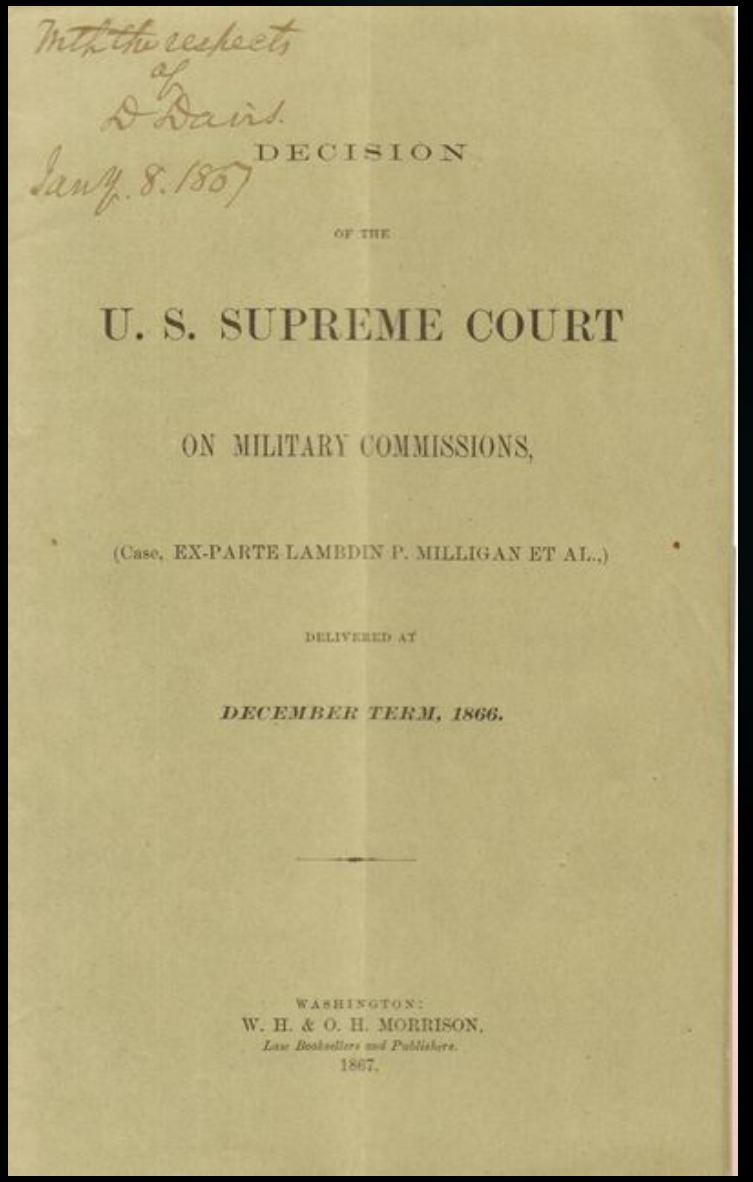
Lambdin P Milligan





LINCOLN DECLARES MARTIAL LAW

Ex Parte Milligan 1866



With the respects of D Davis. Jany. 8. 1867

DECISION

OF THE

U. S. SUPREME COURT

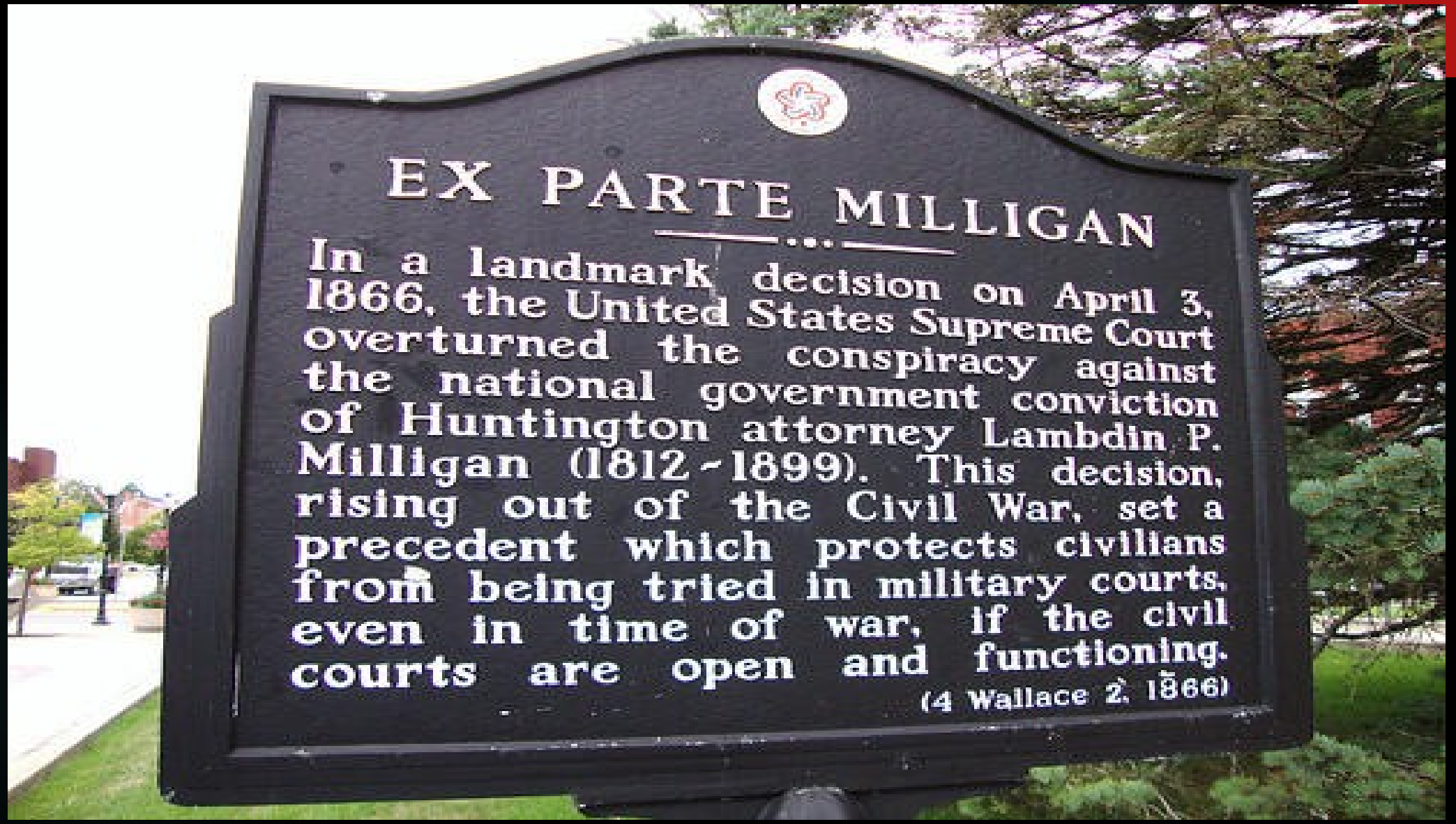
ON MILITARY COMMISSIONS,

(Case, EX-PARTE LAMBDIN P. MILLIGAN ET AL.,)

DELIVERED AT

DECEMBER TERM, 1866.

WASHINGTON:
W. H. & O. H. MORRISON,
Law Booksellers and Publishers.
1867.


EX PARTE MILLIGAN
In a landmark decision on April 3, 1866, the United States Supreme Court overturned the conspiracy against the national government conviction of Huntington attorney Lambdin P. Milligan (1812-1899). This decision, rising out of the Civil War, set a precedent which protects civilians from being tried in military courts, even in time of war, if the civil courts are open and functioning.
(4 Wallace 2, 1866)

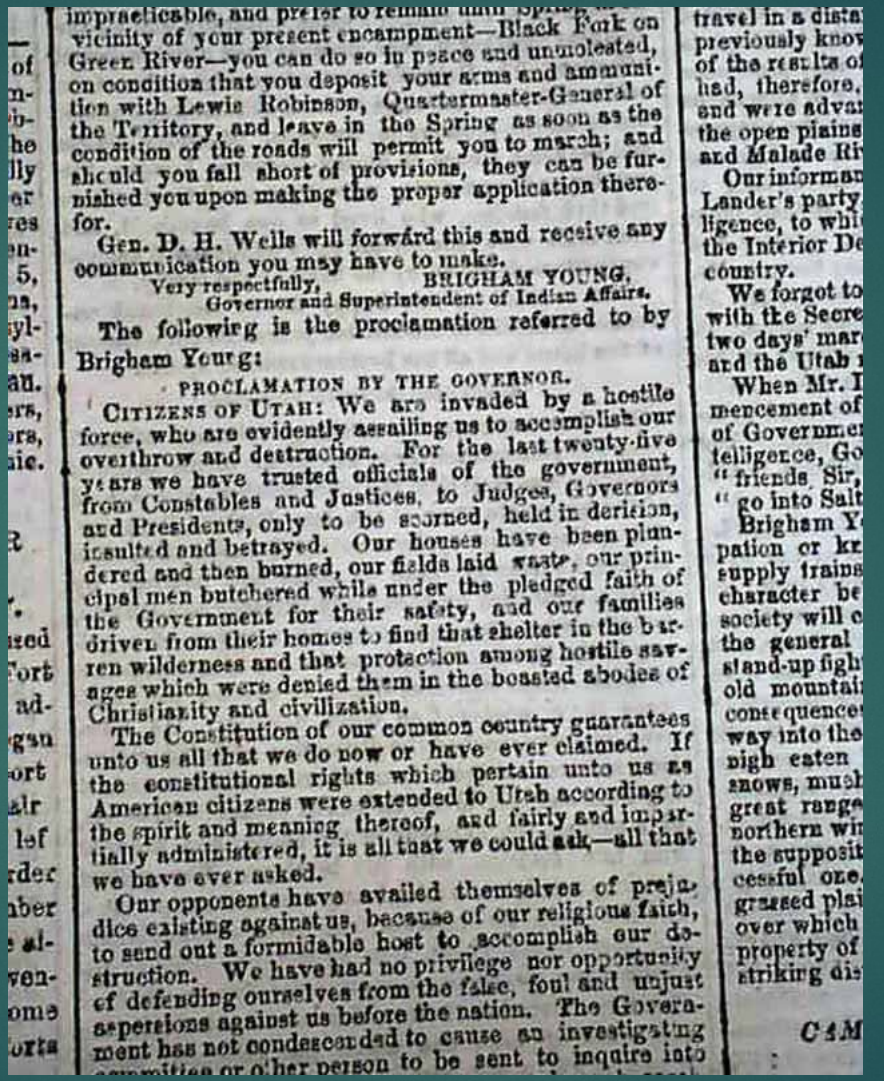
TRUE STORIES OF MARTIAL LAW IN AMERICA

New Orleans during War of 1812

Put under martial law during wa
Judge declared it illegal
Judge was arrested by military
Martial law continued

1857
THE UTAH WAR

Utah governor
Declares martial law
To protect religious freedom



impracticable, and prefer to remain until Spring ... vicinity of your present encampment—Black Fork on Green River—you can do so in peace and unmolested, on condition that you deposit your arms and ammunition with Lewis Robinson, Quartermaster-General of the Territory, and leave in the Spring as soon as the condition of the roads will permit you to march; and should you fall short of provisions, they can be furnished you upon making the proper application therefor.

Gen. D. H. Wells will forward this and receive any communication you may have to make.

Very respectfully, BRIGHAM YOUNG,
Governor and Superintendent of Indian Affairs.

The following is the proclamation referred to by Brigham Young:

PROCLAMATION BY THE GOVERNOR.

CITIZENS OF UTAH: We are invaded by a hostile force, who are evidently assailing us to accomplish our overthrow and destruction. For the last twenty-five years we have trusted officials of the government, from Constables and Justices, to Judges, Governors and Presidents, only to be scorned, held in derision, insulted and betrayed. Our houses have been plundered and then burned, our fields laid waste, our principal men butchered while under the pledged faith of the Government for their safety, and our families driven from their homes to find that shelter in the barren wilderness and that protection among hostile savages which were denied them in the boasted abodes of Christianity and civilization.

The Constitution of our common country guarantees unto us all that we do now or have ever claimed. If the constitutional rights which pertain unto us as American citizens were extended to Utah according to the spirit and meaning thereof, and fairly and impartially administered, it is all that we could ask—all that we have ever asked.

Our opponents have availed themselves of prejudice existing against us, because of our religious faith, to send out a formidable host to accomplish our destruction. We have had no privilege nor opportunity of defending ourselves from the false, foul and unjust aspersions against us before the nation. The Government has not condescended to cause an investigating committee or other person to be sent to inquire into

travel in a dista... previously know... of the results of... had, therefore,... and were advan... the open plains... and Malade Ri...

Our informan... Lander's party,... ligence, to whi... the Interior De... country.

We forgot to... with the Secre... two days' mar... and the Utah ...

When Mr. L... mencement of... of Governme... telligence, Go... "friends Sir,... "go into Salt...

Brigham Y... pation or kr... supply trains... character be... society will c... the general... stand-up figh... old mountai... consequence... way into the... nigh eaten... snows, musk... great range... northern wi... the supposit... cessful one... grassed plai... over which... property of... striking dis...

CAM...

Great Fire of Chicago Martial law 1871

(For a few days)

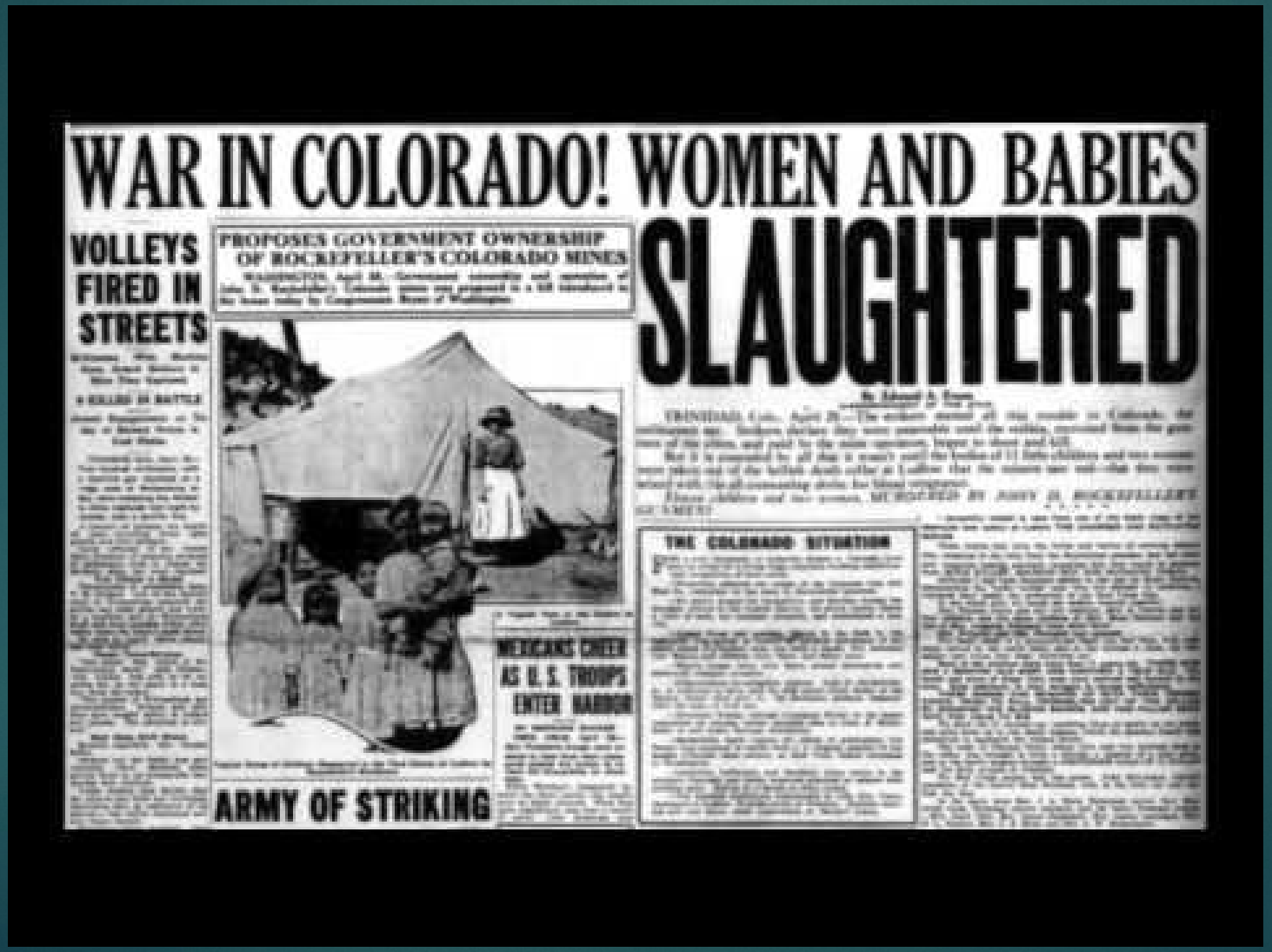
1906
San Francisco Earthquake

Martial law-troops deployed
Dynamite confiscated and
Used to blow up buildings
To prevent fire spreading

1934 San Francisco Dockworker strike Riots

GOVERNOR PLACED DOCKS UNDER MARTIAL LAW AND THREATENED TO EXTEND IT TO THE ENTIRE CITY

1914 Colorado Coalfield War



WAR IN COLORADO! WOMEN AND BABIES

SLAUGHTERED

VOLLEYS FIRED IN STREETS

PROPOSES GOVERNMENT OWNERSHIP OF ROCKEFELLER'S COLORADO MINES

MEXICANS CHEER AS U. S. TROOPS ENTER HARBOR

THE COLORADO SITUATION

ARMY OF STRIKING

Governor declares martial law
Troops used to suppress strikers
Ludlow Massacre resulted
President Wilson steps in and
estores order with Federal troop

Federal troops used to suppress Wobblies (IWW)
Spokane, Wa 1917
Leaders arrested to stop Threat of General strike

The Beautiful State of HAWAII

Under Martial Law

OVER 400 KILLED HERE; JAPAN ANNOUNCES "WAR

Japanese Raids On Guam, Panama Are Reporte

Oahu Blackout Tonight; Fleet Here Moves Out to Sc

Four Waves, Start At 7:55, Oahu Hit In Many Places

Governor Proclaims National Emergency

MARTIAL LAW

DEC 7 1941

THE PRESIDENT
THE WHITE HOUSE
WASHINGTON DC

I HAVE TODAY DECLARED MARTIAL LAW THROUGHOUT THE TERRITORY OF HAWAII AND HAVE SUSPENDED THE PRIVILEGE OF THE WRIT OF HABEAS CORPUS PERIOD YOUR ATTENTION IS CALLED TO SECTION SIXTY SEVEN OF THE HAWAIIAN ORGANIC ACT FOR YOUR DECISION ON MY ACTION

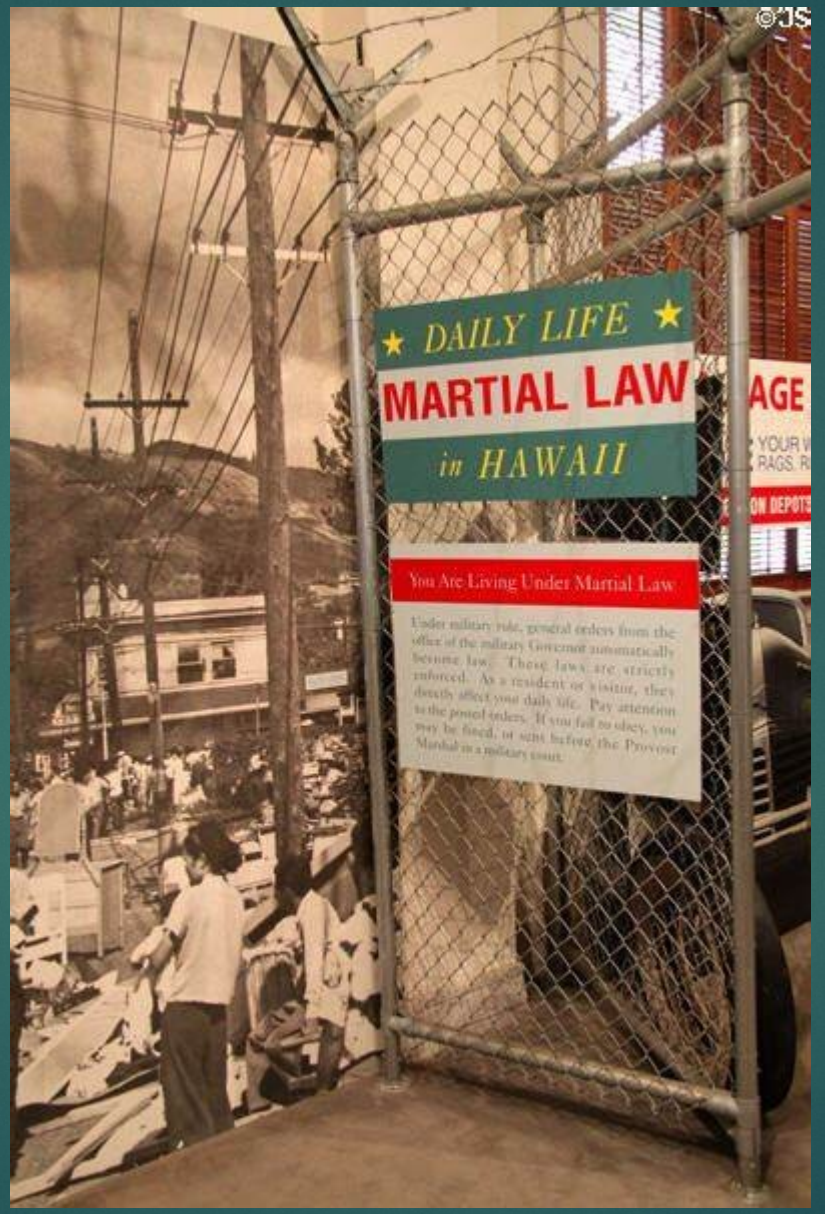
POINDEXTER

DEC 9 1941

HONORABLE JOSEPH B POINDEXTER
GOVERNOR TERRITORY OF HAWAII
HONOLULU HAWAII

YOUR TELEGRAM OF DECEMBER SEVENTH RECEIVED AND YOUR ACTION IN SUSPENDING THE WRIT OF HABEAS CORPUS AND PLACING THE TERRITORY OF HAWAII UNDER MARTIAL LAW IN ACCORDANCE WITH USC TITLE 48 SECTION 532 HAS MY APPROVAL

FRANKLIN D ROOSEVELT


DAILY LIFE
MARTIAL LAW
in HAWAII
You Are Living Under Martial Law

Martin Luther King And Demonstrators against Segregation in the South Dealt with Martial Law

Freedom Riders

→ **Robert Kennedy** decided to send federal marshals to the city

→ Martin Luther King, Jr., flew to Montgomery and held a mass meeting, surrounded by federal marshals, in support of the Freedom Riders

→ a mob of **several thousand whites surrounded the church**

→ at 3 AM, King called Robert Kennedy and Kennedy called Alabama Governor John Patterson - he declared martial law and sent in state police and the National Guard

→ Freedom Riders, however, decided to continue on to Mississippi

→ were given good protection as they entered the state, and no mob greeted them at the Jackson bus terminal

→ Robert Kennedy and Mississippi Senator James O. Eastland had reached a compromise Kennedy promised not to use federal troops if there was no mob violence

→ the Nashville Freedom Riders were arrested by local police - May 25, they were tried - as their attorney defended them, the judge turned his back

→ Freedom Riders never made it to New Orleans

STATUTES THAT DEAL WITH DISASTER LAWS

LAWS PASSED BY CONGRESS ATTEMPTING TO REGULATE THE USE OF MILITARY OR EXECUTIVE AUTHORITY TO DEAL WITH DISRUPTION AND DISASTER.

POSSE COMITATUS ACT

LIMITS USE OF MILITARY FORCES FOR DOMESTIC PURPOSES.

Enacted by congress
In 1878
To limit use of military
For domestic purposes.

posse comitatus

it shall not be lawful to employ any part of the Army of the United States, as a posse comitatus, or otherwise, for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force may be expressly authorized by the Constitution or by act of Congress.

STATUTES RELEVANT TO DIS MANAGEMENT

Hurricane Katrina led to a major revamping of laws focused on disaster management

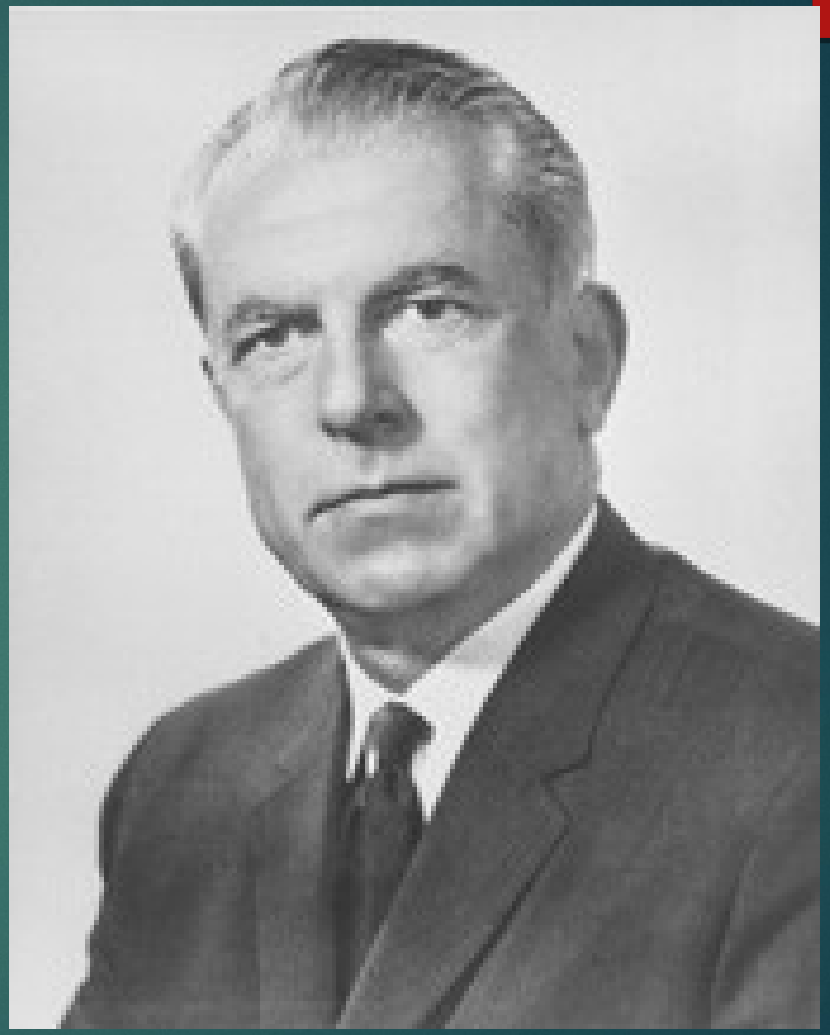
The Stafford Act

Robert T. Stafford Disaster Relief and Emergency Assistance Act, *as Amended*

April 2013

Robert T. Stafford Himself

Looks like a Decent guy



It’s all about….
FEMA

Huge bill

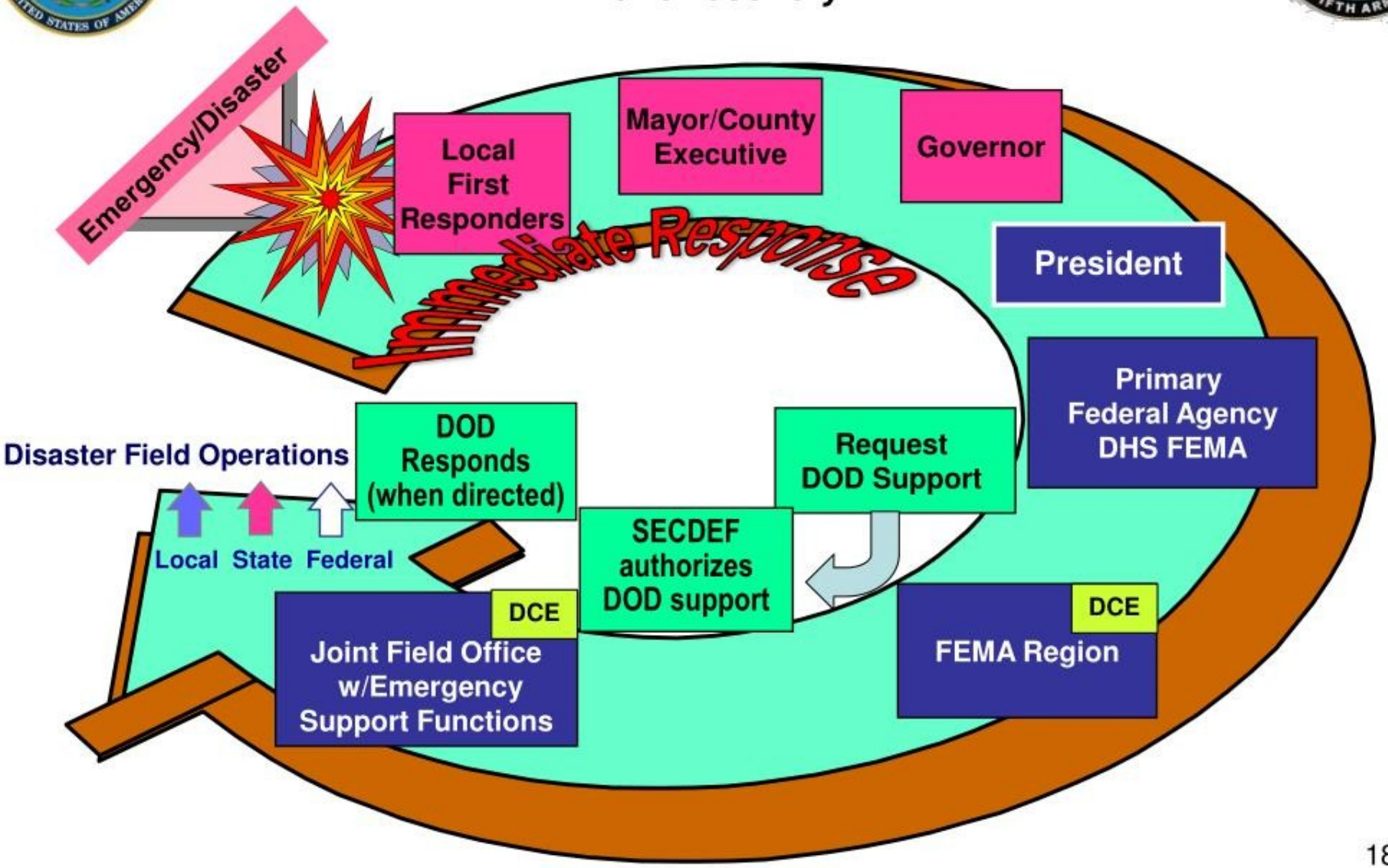
173 pages
Of dense legalese
Not counting the Regulations

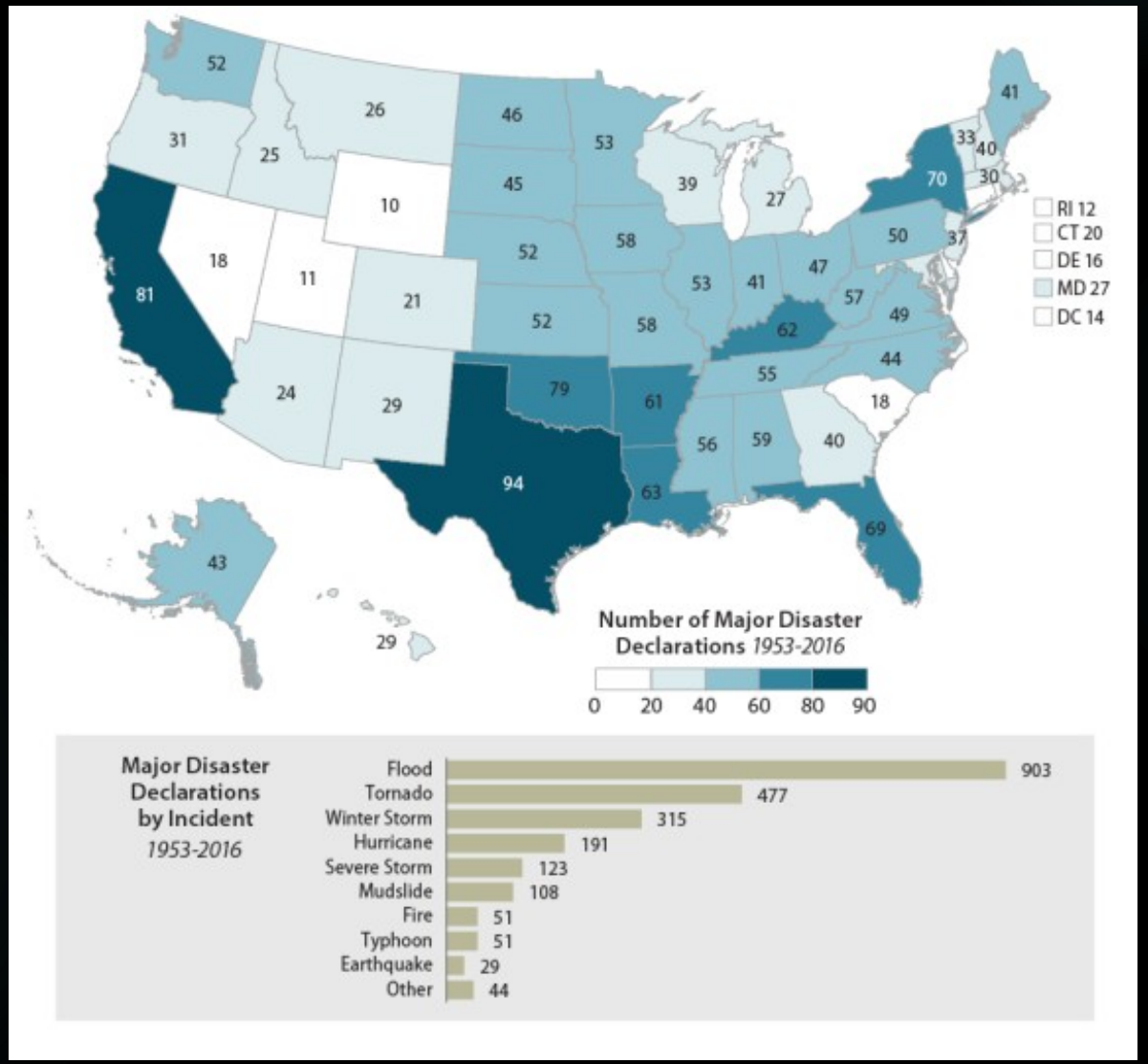
Statutory Constraints: the Stafford Act

- The Robert T. Stafford Disaster Relief and Emergency Assistance Act (1988) calls for disaster and emergency declarations for events that overwhelm state and local capability. These trigger statutory authority and access on the part of FEMA to a Disaster Relief Fund to provide federal direct aid and financial assistance to render emergency services. Along with the legislation that created the agency, this Act authorizes FEMA to coordinate the administration of all disaster relief.
- A Governor must execute the given State's emergency plan and indicate in writing that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and affected local governments and supplemental Federal assistance is necessary. A Disaster Declaration made by the President specifies the types of assistance authorized for that state.
- A Governor's request is not necessary for the President to issue an emergency declaration if it involves a "Federal primary responsibility." Such responsibility rests with the United States government because the emergency involves a subject area for which, under the Constitution or federal laws, the United States exercises exclusive or preeminent responsibility and authority. Examples: Direct federal action after the bombing of the Murrah Federal Building in 1995; the Pentagon attack in 2001; and the Shuttle Columbia explosion in 2003.

DSCA Stafford Act Response

Federal resources to supplement state and local disaster relief and recovery

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RI 12
CT 20
DE 16
MD 27
DC 14
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62
44
55
79
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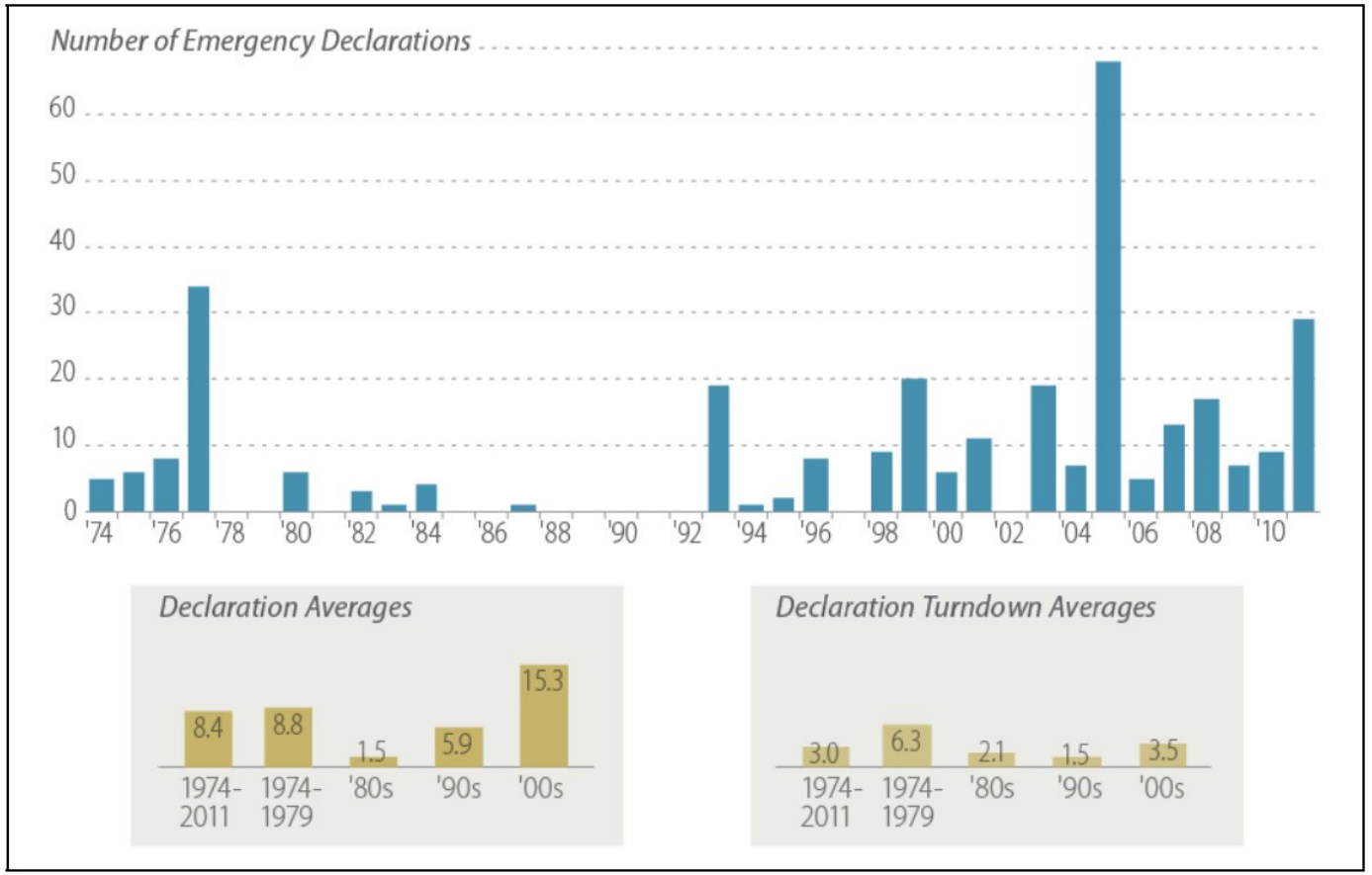
18
24
29
56
59
40
94
63
69
43
29
Number of Major Disaster Declarations 1953-2016
0 20 40 60 80 90
Major Disaster Declarations by Incident 1953-2016
Flood 903
Tornado 477
Winter Storm 315
Hurricane 191
Severe Storm 123
Mudslide 108
Fire 51
Typhoon 51
Earthquake 29
Other 44

Figure 3. Emergency Declarations

1974-2011



Source: CRS analysis based on data provided by FEMA.

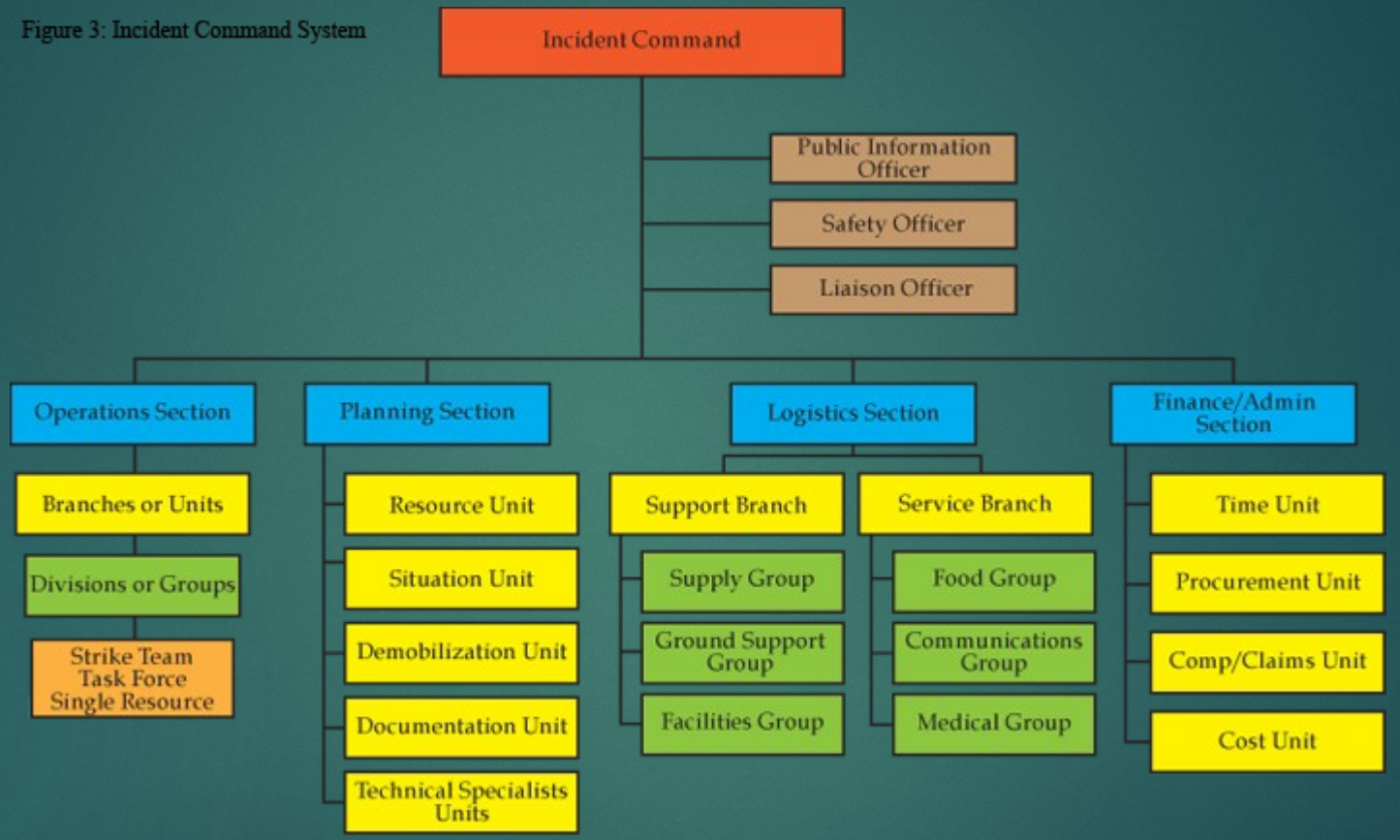
- The President may exercise any authority vested in him by section 5192 of this title or section 5193 of this title [Sections 502 or 503] with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority

FEMA HAS BROUGHT US

ICS

INCIDENT COMMAND SYSTEM

Figure 3: Incident Command System



ICS REALLY WORKS

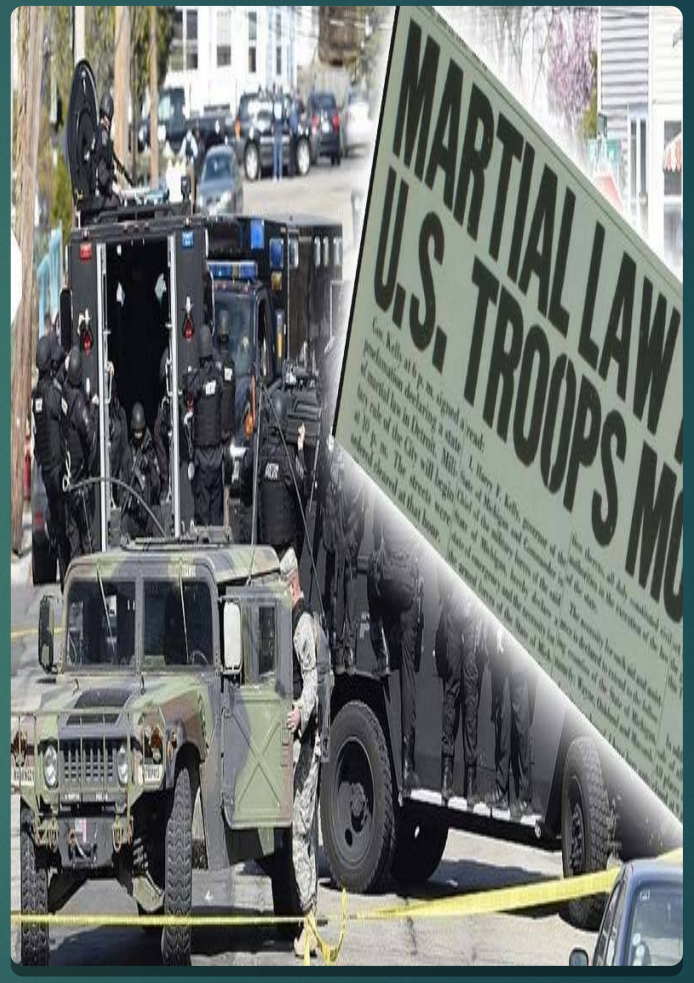
Not a democracy-
But also not Martial Law

LESSONS I HAVE LEARNED ABOUT ORGANIZING AN EVENT

Democracy takes a lot of time
And energy
Sometimes you just have to
Get things done

THIS IS WHAT WE DON’T WANT

Fema approach under Stafford Act provides a well ordered alternative to disaster response that makes Martial Law unnecessary.



THIS IS HOW WE WANT TO FEEL

The Stafford Act process and FEMA really work to make things better for all of us.